

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: **RITZELER, et al.**

Examiner: Roa, Deepak

Application No.: **10/642,970**

Art Unit: 1624

Filed: **August 18, 2003**

Title: **INDOLE DERIVATIVES OR  
BENZIMIDAZOLE DERIVATIVES  
FOR MODULATING I $\kappa$ B KINASE**

**REQUEST FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705**

Mail Stop Issue Fee  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir,

Pursuant to 37 C.F.R. § 1.705, Applicants request reconsideration of the patent term adjustment indicated on the Notice of Allowance mailed on March 19, 2007. In support thereof, Applicants submit herewith: (1) the requisite fee set forth under 37 C.F.R. § 1.18(e); and (2) a statement of facts forming the basis for patent term correction. Applicants further warrant that any patent granted on this application is not subject to a terminal disclaimer.

Applicants respectfully submit that the patent term adjustment should be 344 days, not 111 days as presently indicated on the Notice of Allowance.

## **STATEMENT OF THE CORRECT PATENT TERM ADJUSTMENT**

### **I. Applicants Timely Responded to Notice of Missing Parts**

In response to a Notice to File Missing Parts dated November 12, 2003, which notified Applicants of an unsigned declaration or oath, Applicants timely filed on January 7, 2004 (via facsimile) a response which included a signed declaration and authorization to charge the deposit account of Aventis Pharmaceuticals Inc. In turn, confirmation of receipt by the United States Patent Office ("the Office") was in the form of an Auto-Reply Facsimile Transmission confirming receipt of 8 pages of the January 7, 2004 Response.

On May 4, 2004 the Office issued a second Notice to File Missing Parts notifying applicants of an unsigned oath or declaration. In a response dated June 16, 2004, applicants filed a timely response which included copies of the previously submitted declaration filed on January 7, 2004. In turn, Applicants received an Auto-Reply Facsimile Transmission from the USPTO confirming receipt on applicants' June 16, 2004 submission.

On January 5, 2005 the Office issued a Notice of Abandonment for failure to timely or properly reply to the Notice to File Missing Parts dated May 4, 2004. In response, Applicants timely filed, on March 3, 2005, a Petition to Withdraw the Office's holding of Abandonment, which included copies of Applicant's responses filed on January 7, 2004 and June 16, 2004. Subsequently, the Office issued a Withdrawal of the Previously Sent Notice of Abandonment. The Withdrawal indicated that the Notice of Abandonment dated January 5, 2005 was sent in error.

### **II. Applicants Engaged in Reasonable Efforts**

Applicants engaged in reasonable efforts, and respectfully assert that the May 4, 2004 Notice to File Missing Parts, and subsequent January 5, 2005 Notice of Abandonment were issued by the Office in error. Accordingly, Applicants respectfully submit that the proper calculation of 344 days cannot reflect a failure to engage in reasonable efforts by the Applicant. Thus, Applicants request the aforementioned Application Adjustment of Patent Term under 35 USC 154(b) to be corrected from the 111 days listed on the Notice of Allowance, to an accurate 344 days.

The Commissioner is authorized to charge the \$200.00 fee set forth in §1.18(e) required by 37 C.F.R. §1.705(b)(1) to Deposit Account No. 18-1982. The Commissioner is also authorized to charge any additional fees required by this paper or credit any overpayment to Deposit Account No. 18-1982.

Respectfully submitted,



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